IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13200 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL
THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHREE PUNJAB CO-OP.H.SOCI.LTD.PART-5-THR' ITS CHAIRMAN - Petitioner(s)
Versus
TORRENT POWER AEC LTD. THR' GENERAL MANGSER & 1 - Respondent(s)

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Appearance :
MRS FALGUNI D PATEL for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 28/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

1. Rule. The record indicates that though both the respondents are duly served with the notice for final disposal of the petition, none of the respondents has appeared either through lawyer or through its constituted agent or filed affidavit-in-reply controverting the averments made in the petition.

2. By filing this petition under Article 226 of the Constitution of India, Mr. Ketankumar Dhirajbhai Patel, who is Chairman of Shere Punjab Cooperative Housing Society Ltd., Part-5, which is registered under the provisions of the Gujarat Cooperative Societies Act, 1961, has prayed to issue a writ of mandamus or any other appropriate writ or order, directing the respondent No.1 i.e. Torrent Power AEC Ltd., to supply electricity connection to the flats and shops constructed by the society.

3. Mr. Ketankumar Dhirajbhai Patel is Chairman of Shere Punjab Cooperative Housing Society Ltd., Part-5. The society possesses Final Plot No.193 at Vejalpur, which is included in Town Planning Scheme No.3. It wanted to develop the land for residential and commercial purpose of its members. Therefore, the society applied to the Ahmedabad Urban Development Authority to permit it to develop the land. The respondent No.2 granted the Development Permission by an order dated March 22, 2005, which is produced by the petitioner at Annexure A to the petition. Pursuant to the above referred to Development Permission, the society has constructed flats and shops. After construction of flats and shops was over, it was incumbent for the society to obtain Building Use Permission and thereafter, apply to the respondent No.1 for supply of electricity connection. However, without obtaining Building Use Permission, the petitioner applied to the

respondent No.1 for supply of electricity connection to the flats and shops constructed by it. The said request has been rejected by the respondent No.1 which is quite evident from communication dated June 27, 2006, addressed by the General Manager of Torrent AEC Ltd. to the Chairman of the society. From the said communication it is evident that electricity connection is not granted because the petitioner could not produce Building Use Permission. By the said communication, the petitioner is called upon to produce Building Use Permission or conditional order of the High Court to enable the respondent No.1 to supply electric supply to the premises constructed by the petitioner. Under the circumstances, the petitioner has filed the instant petition and claimed relief to which reference is made earlier.

4. The petition was placed for admission hearing before this Bench on July 7, 2006 and after hearing the learned counsel for the

petitioner, notice for final disposal of the petition was issued making it returnable today i.e. July 28, 2006. The record shows that both the respondents are duly served, but, none of them has appeared to contest the petition.

5. This Court has heard the learned counsel for the petitioner and considered the documents forming part of the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued :

(1) The petitioner will approach the Ahmedabad Urban development Authority for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted

by the petitioner, within four months from the date of receipt of the same.

(3)The petitioner shall apply to the respondent No.1, i.e. Torrent Power AEC Limited, for providing electricity connection to 85 residential flats/shops/apartments constructed by it with a proper application/form/format and by paying charges within a week.

(4)The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to low-rise Residential-cum-Commercial Complex constructed by the petitioner within one month on usual terms and conditions.

(5)In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform the Torrent Power AEC Limited to disconnect

the electricity supply made available to low-rise Residential-cum-Commercial Complex constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the low-rise Residential-cum-Commercial Complex constructed by the petitioner within a period of fifteen days.

(6)In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to low-rise Residential-cum- Commercial Complex constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to low-rise Residential-cum-Commercial Complex constructed by the

petitioner.

(7)The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply provided to low-rise Residential-cum-Commercial Complex constructed by it. This Undertaking shall be filed along with the application/form/format meant for the purpose.

6. Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal,J.)

(Smt. Abhilasha Kumari, J.)

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